

## Message Text

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ACTION AF-10

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10

L-03 NSAE-00 NSC-05 PA-01 SP-02 SS-15 ICA-11

IO-13 HA-05 TRSE-00 OMB-01 /083 W

-----008288 031936Z /75

R 031442Z MAY 78

FM AMEMBASSY LAGOS

TO SECSTATE WASHDC 8272

INFO AMCONSUL IBADAN

AMCONSUL KADUNA

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E.O. 11652: N/A

TAGS: PGOV, PDEV, NI

SUBJECT: THE CA AND THE LAND USE DECREE

REF: (A) LAGOS 4732, (B) LAGOS 4700, (C) LAGOS 4663

1. IN COMPLETING ITS CONSIDERATION OF CHAPTER 4 (FUNDAMENTAL RIGHTS) OF THE CONSTITUTION, THE CONSTITUENT ASSEMBLY (CA) ON MAY 1 ADOPTED, APPARENTLY VERBATIM, SECTION 36 OF THE DRAFT TEXT WHICH GUARANTEES THE RIGHT TO HOLD PROPERTY.

2. SECTION 36, SUBSECTION 1, READS AS FOLLOWS:

"36. (1) EVERY PERSON SHALL BE ENTITLED TO OWN OR HOLD PROPERTY AND ACCORDINGLY NO PROPERTY, MOVABLE OR IMMOVABLE, SHALL BE TAKEN POSSESSION OF COMPULSORILY AND NO RIGHT OVER OR INTEREST IN ANY SUCH PROPERTY SHALL BE ACQUIRED COMPULSORILY IN ANY PART OF NIGERIA EXCEPT FOR PUBLIC PURPOSE AND BY OR UNDER THE PROVISIONS OF A LAW THAT:

"(A) REQUIRES THE PROMPT PAYMENT OF ADEQUATE

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COMPENSATION THEREFORE; AND

"(B) GIVES TO ANY PERSON CLAIMING SUCH COMPENSATION A RIGHT OF ACCESS FOR THE DETERMINATION OF HIS INTEREST IN THE PROPERTY AND THE AMOUNT OF COMPENSATION, TO THE HIGH COURT HAVING JURISDICTION IN THAT PART OF NIGERIA."

3. THE CA'S ACTION WAS WIDELY INTERPRETED BY THE PRESS AS A REJECTION OF THE CONTROVERSIAL LAND USE DECREE RECENTLY PROMULGATED BY THE FMG. IN REPORTING THE CA'S DECISION, THE MAY 2 PUNCH SAID THAT THE CA HAD REJECTED THE DECREE "TECHNICALLY" AND ADDED THAT SEVERAL MCAS HAD TOLD ITS REPORTER THAT "THE DECREE WOULD BE FINALLY THROWN OUT OF EXISTENCE AS NO DECREE OR EDICT IS ABOVE THE CONSTITUTION AND COULD BE REPEALED BY AN ACT OF THE NATIONAL ASSEMBLY."

4. THE CA HAS NOW TURNED ITS ATTENTION TO CHAPTER 2 OF THE DRAFT, FUNDAMENTAL OBJECTIVES AND DIRECTIVE PRINCIPLES OF STATE POLICY.

5. COMMENT: BY APPROVING THE PROPERTY GUARANTEE SECTION OF THE CONSTITUTION WHICH WAS WRITTEN WELL BEFORE THE LAND USE DECREE AND WHICH IN MANY WAYS IS PHILOSOPHICALLY ANTITHETICAL TO IT, THE CA HAS CLEARLY PROVIDED A CONSTITUTIONAL BASIS FOR THE ABOLITION OF THE DECREE. WE HAVE NO DOUBT THAT A SUBSTANTIAL NUMBER OF MCAS ARE OPPOSED TO THE DECREE FOR PERSONAL AS WELL AS POLITICAL REASONS. HOWEVER, RATHER THAN PROVOKE A DIRECT CONFRONTATION WITH THE FMG AT THIS TIME OVER THE DECREE, THE CA APPARENTLY LIMITED OFFICIAL USE

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DECIDED MERELY TO LAY THE GROUNDWORK FOR LATER ACTION.  
WYMAN

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NNN

## Message Attributes

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**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** LAND NATIONALIZATION, CONSTITUTIONAL AMENDMENTS  
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**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
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**Disposition Approved on Date:**  
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**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 20 Mar 2014  
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**Executive Order:** N/A  
**Errors:** N/A  
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**Reference:** 78 LAGOS 4732, 78 LAGOS 4700, 78 LAGOS 4663  
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**Review Markings:**  
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